

AMENDED IN SENATE MAY 29, 2012

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SENATE BILL

No. 1192

Introduced by Senator Evans

February 22, 2012

An act to amend ~~Section~~ *Sections 8670.40 and 8670.41* of, and to add *Section 8670.43* to, the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

SB 1192, as amended, Evans. Oil spill prevention and administrative fee.

Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to implement oil spill prevention activities, but not to exceed, until January 1, 2015, \$0.065 per barrel of crude oil or petroleum products, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes, including to cover the costs incurred by the Oiled Wildlife Care Network for training and field collection, and search and rescue activities.

This bill would extend the authority to use money in the fund to other costs incurred by the Oiled Wildlife Care Network *and would increase the maximum annual assessment from \$0.065 to \$0.068 per barrel of crude oil or petroleum products. The bill would subsequently decrease the annual assessment, beginning January 1, 2015, to a maximum of \$0.053 per barrel of crude oil or petroleum products.*

Existing law permits the administrator to charge a nontank vessel owner or operator a reasonable fee, to be collected with each

application to obtain a certificate of financial responsibility, in an amount that is based upon the administrator's costs in implementing oil spill prevention relating to nontank vessels.

This bill would require the fee to be at least \$3,500 per nontank vessel but would give the administrator discretion to reduce the fee for nontank vessels that pose a reduced risk of pollution.

Existing law requires the administrator to submit for each fiscal year, as a part of the Governor's Budget, a proposed appropriation from interest earned on moneys deposited into the Oil Spill Response Trust Fund, in an amount not to exceed \$2,000,000, for the purposes of equipping, operating, and maintaining the network of oiled wildlife rescue and rehabilitation stations, proactive oiled wildlife search and collection rescue efforts, and supporting technology development and research related to oiled wildlife care. Existing law requires that any remaining interest earned be deposited into the Oil Spill Prevention and Administration Fund.

This bill would authorize the administrator to include in this proposed appropriation an additional amount, not to exceed \$2,000,000, from the Oil Spill Prevention and Administration Fund for the purpose of training and field collection, search and rescue activities, and equipping, operating, and maintaining the Oiled Wildlife Care Network.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8670.40 of the Government Code is
2 amended to read:
3 8670.40. (a) The State Board of Equalization shall collect a
4 fee in an amount determined by the administrator to be sufficient
5 to carry out the purposes set forth in subdivision (e), and a
6 reasonable reserve for contingencies. The annual assessment shall
7 not exceed six and ~~one-half~~ *eight-tenths* cents ~~(\$0.065)~~ *(\$0.068)*
8 per barrel of crude oil or petroleum products. Beginning January
9 1, 2015, the annual assessment shall not exceed five *and*
10 ~~three-tenths~~ *three-tenths* cents ~~(\$0.05)~~ *(\$0.053)* per barrel of crude oil or
11 petroleum products.
12 (b) (1) The oil spill prevention and administration fee shall be
13 imposed upon a person owning crude oil at the time that crude oil
14 is received at a marine terminal from within or outside the state,

1 and upon a person who owns petroleum products at the time that
2 those petroleum products are received at a marine terminal from
3 outside this state. The fee shall be collected by the marine terminal
4 operator from the owner of the crude oil or petroleum products
5 based on each barrel of crude oil or petroleum products so received
6 by means of a vessel operating in, through, or across the marine
7 waters of the state. In addition, an operator of a pipeline shall pay
8 the oil spill prevention and administration fee for each barrel of
9 crude oil originating from a production facility in marine waters
10 and transported in the state by means of a pipeline operating across,
11 under, or through the marine waters of the state. The fees shall be
12 remitted to the board by the terminal or pipeline operator on the
13 25th day of the month based upon the number of barrels of crude
14 oil or petroleum products received at a marine terminal or
15 transported by pipeline during the preceding month. A fee shall
16 not be imposed pursuant to this section with respect to crude oil
17 or petroleum products if the person who would be liable for that
18 fee, or responsible for its collection, establishes that the fee has
19 been collected by a terminal operator registered under this chapter
20 or paid to the board with respect to the crude oil or petroleum
21 product.

22 (2) An owner of crude oil or petroleum products is liable for
23 the fee until it has been paid to the board, except that payment to
24 a marine terminal operator registered under this chapter is sufficient
25 to relieve the owner from further liability for the fee.

26 (3) On or before January 20, the administrator shall annually
27 prepare a plan that projects revenues and expenses over three fiscal
28 years, including the current year. Based on the plan, the
29 administrator shall set the fee so that projected revenues, including
30 any interest, are equivalent to expenses as reflected in the current
31 Budget Act and in the proposed budget submitted by the Governor.
32 In setting the fee, the administrator may allow for a surplus if the
33 administrator finds that revenues will be exhausted during the
34 period covered by the plan or that the surplus is necessary to cover
35 possible contingencies. The administrator shall notify the board
36 of the adjusted fee rate, which shall be rounded to no more than
37 four decimal places, to be effective the first day of the month
38 beginning not less than 30 days from the date of the notification.

39 (c) The moneys collected pursuant to subdivision (a) shall be
40 deposited into the fund.

1 (d) The board shall collect the fee and adopt regulations for
2 implementing the fee collection program.

3 (e) The fee described in this section shall be collected solely
4 for all of the following purposes:

5 (1) To implement oil spill prevention programs through rules,
6 regulations, leasing policies, guidelines, and inspections and to
7 implement research into prevention and control technology.

8 (2) To carry out studies that may lead to improved oil spill
9 prevention and response.

10 (3) To finance environmental and economic studies relating to
11 the effects of oil spills.

12 (4) To implement, install, and maintain emergency programs,
13 equipment, and facilities to respond to, contain, and clean up oil
14 spills and to ensure that those operations will be carried out as
15 intended.

16 (5) To respond to an imminent threat of a spill in accordance
17 with the provisions of Section 8670.62 pertaining to threatened
18 discharges. The cumulative amount of an expenditure for this
19 purpose shall not exceed the amount of one hundred thousand
20 dollars (\$100,000) in a fiscal year unless the administrator receives
21 the approval of the Director of Finance and notification is given
22 to the Joint Legislative Budget Committee. Commencing with the
23 1993–94 fiscal year, and each fiscal year thereafter, it is the intent
24 of the Legislature that the annual Budget Act contain an
25 appropriation of one hundred thousand dollars (\$100,000) from
26 the fund for the purpose of allowing the administrator to respond
27 to threatened oil spills.

28 (6) To reimburse the board for costs incurred to implement this
29 chapter and to carry out Part 24 (commencing with Section 46001)
30 of Division 2 of the Revenue and Taxation Code.

31 (7) To cover costs incurred by the Oiled Wildlife Care Network
32 established by Section 8670.37.5, *in accordance with Section*
33 *8670.43.*

34 (f) The moneys deposited in the fund shall not be used for
35 responding to an oil spill.

36 (g) The moneys deposited in the fund shall not be used to
37 provide a loan to any other fund.

38 *SEC. 2. Section 8670.41 of the Government Code is amended*
39 *to read:*

1 8670.41. (a) The administrator shall charge a nontank vessel
2 owner or operator a reasonable fee, to be collected with each
3 application to obtain a certificate of financial responsibility, in an
4 amount that is based upon the administrator's costs in
5 implementing this chapter relating to nontank vessels *and shall be*
6 *at least three thousand five hundred dollars (\$3,500) per nontank*
7 *vessel. Before January 1, 2005, the fee shall be two thousand five*
8 *hundred dollars (\$2,500), or less per vessel.*

9 (b) ~~The~~ *Notwithstanding subdivision (a), the* administrator may
10 charge a reduced fee under this section for nontank vessels
11 determined by the administrator to pose a reduced risk of pollution,
12 including, but not limited to, vessels used for research or training
13 and vessels that are moored permanently or rarely move.

14 (c) The administrator shall deposit all revenue derived from the
15 fees imposed under this section in the Oil Spill Prevention and
16 Administration Fund established in the State Treasury under
17 Section 8670.38.

18 (d) Revenue derived from the fees imposed under this section
19 may be spent for the purposes listed in subdivision (e) of Section
20 8670.40, and may not be used for responding to an oil spill.

21 *SEC. 3. Section 8670.43 is added to the Government Code, to*
22 *read:*

23 8670.43. *For each fiscal year, consistent with this article, the*
24 *administrator shall submit, as a proposed appropriation in the*
25 *Governor's Budget, an amount, not to exceed two million dollars*
26 *(\$2,000,000), from the Oil Spill Prevention and Administration*
27 *Fund for the purpose of training and field collection, search and*
28 *rescue activities pursuant to subdivision (g) of Section 8670.37.5,*
29 *and equipping, operating, and maintaining the Oiled Wildlife Care*
30 *Network.*